

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Sammie Louis Stokes,)	C/A No.: 1:16-845-RBH-SVH
)	
Petitioner,)	DEATH PENALTY CASE
)	
vs.)	
)	ORDER
Bryan P. Stirling, Director, South)	APPOINTING COUNSEL
Carolina Department of Corrections;)	
Joseph McFadden, Lieber Correctional)	
Institution,)	
)	
Respondents.)	
)	

On March 9, 2016, Petitioner Sammie Louis Stokes (“Petitioner”) filed a motion to stay his execution and to file a petition for habeas corpus pursuant to 28 U.S.C. § 2254 [ECF No. 1]. On March 16, 2016, the Honorable R. Bryan Harwell, United States District Judge, stayed Petitioner’s execution pursuant to 28 U.S.C. § 2251(a)(3). [ECF No. 8]. This matter has been referred to the undersigned pursuant to 28 U.S.C. § 636(b) and Local Civ. Rule 73.02(B)(2) (D.S.C.). This matter is before the court on Petitioner’s motion for appointment of counsel [ECF No. 1] and to proceed in forma pauperis (“IFP”) [ECF No. 2].

Petitioner's application to proceed IFP reveals that he is indigent. Therefore, Petitioner's motion to proceed IFP [ECF No. 2] is granted.

Petitioner seeks the appointment of counsel under 18 U.S.C. § 3599 to assist in the preparation and filing of a petition for relief under 28 U.S.C. § 2254. Respondents have no objection to the appointment of counsel. [ECF No. 7 at 15]. Petitioner seeks the

appointment of Diana Holt, Esq., and Marta K. Kahn, Esq. Ms. Holt is a member in good standing of this court's Bar. Although she is not on the court's "Death Penalty Panel Attorney" list, Ms. Holt has previously been appointed lead counsel for a death-sentenced petitioner in this court in the cases of *Bell v. Catoe*, C/A No. 3:00-1777-DCN (D.S.C.), and *Elmore v. Ozmint*, C/A No. 4:04-22310-DCN (D.S.C.). Ms. Holt meets the requirements of this District's plan for implementing the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A. *See Amended CJA Plan for the District of South Carolina*, 3:10-MS-5005 (D.S.C) ("At least one attorney appointed must have been admitted to practice in the District of South Carolina for at least five (5) years and must have not less than three (3) years actual experience in handling felony cases.")

Ms. Kahn was admitted to the state Bar of Maryland on December 13, 1995, to the Bar of the Court of Appeals for the Fourth Circuit in March 1998, and to the Bar of the U.S. District Court for District of Maryland in July 1998. Ms. Kahn was also appointed to represent Edward Lee Elmore, *supra*, and remained on the case throughout the federal litigation. Additionally, Ms. Kahn has represented prisoners in felony appeals in the United States Court of Appeals for the Fourth Circuit since 2009. Since 1995, Ms. Kahn has participated in some aspect of the trial, direct appeal, or collateral review process in at least 20 capital cases.


Petitioner has submitted an affidavit in which he lists the credentials and experience of Ms. Holt and Ms. Kahn, demonstrating that they satisfy the criteria of 18 U.S.C. § 3599, and expressing his desire for them to represent him on a petition for habeas corpus. [ECF No. 1-1]. The undersigned notes that 18 U.S.C. § 3599(d) provides

that “[t]he court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation.”).

The court grants Petitioner’s motion for appointment of counsel of Ms. Holt. The court also grants the motion for appointment of Ms. Kahn, contingent on her filing a proper motion to appear pro hac vice.

As previously ordered, Petitioner is directed to file a habeas petition by June 14, 2016.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Shiva V. Hodges". The signature is written in a cursive, flowing style.

March 16, 2016
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge